REMARKS

Claims 1-10, 13-23, and 26-28 are pending and remain. Claims 1, 5, 6, 14, 18, 19, and 28 have been amended.

Rejections under 35 U.S.C. § 103(a) over Schmidt and Chase

Claims 1-10, 13-23, and 26-28 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,546,554, to Schmidt et al. ("Schmidt"), in view of U.S. Patent No. 7,240,107 to Chase-Salerno et al. ("Chase"). Applicant traverses.

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness, which includes a clear articulation of the reasons or rationale why the claimed invention would have been obvious. MPEP 2142. Exemplary rationales to support a conclusion of obviousness are listed in MPEP 2143, although the list is not all-inclusive.

The claims appear to be rejected under the rationale outlining combining prior art elements according to known methods to yield predicable results, which includes *inter alia* "a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference." MPEP 2143(A). If any of the findings cannot be made, this rational cannot be used to support a conclusion that the claim would have been obvious. *Id.*

Claim 1 has been amended to recite a checking mechanism to receive an installation predicate object comprising code from the service host system to test the requesting system by remotely determining availability of the network service software on the service host system and by verifying prerequisites against a runtime environment through the service host system. Claim 14 now recites receiving on the requesting system, an installation predicate object comprising code from the service host system to test the requesting system by remotely determining availability of the network service software and by verifying prerequisites against a runtime environment through the service host system. Claim 28 now recites means for receiving on the requesting system, an

installation predicate object comprising code from the service host system to test the requesting system by remotely determining availability of the network service software on the service host system and by verifying prerequisites against a runtime environment through the service host system. Support for the claim amendments can be located in the specification on page 8, lines 20-31. Thus, no new matter has been entered.

The Schmidt-Chase combination fails to teach such limitations. Both references, Schmidt and Chase, were described in detail in a Response to final Office Action filed on December 24, 2009, which is fully incorporated by reference. The combination further teaches a client computer that includes one or more Java Runtime Environments (JREs) and a helper application (Schmidt, Col. 5, line 55-Col. 6, line 3). When a browser on the client computer encounters a metafile on a server with a new Java Net Launcher (JNL) file format, a copy of the JNL metafile is downloaded to a local temporary file on the client computer (Schmidt, Col. 7, lines 59-65). The helper application is invoked to select an appropriate JRE based on the JNL metafile (Schmidt, Col. 6, lines 3-14; Col. 7, lines 50-65). If the appropriate JRE has not been installed on the client, the helper application automatically identifies and installs the appropriate JRE (Schmidt, Col. 6, lines 14-17; Col. 8, lines 1-13).

The helper application parses the temporary JNL metafile to identify necessary components for the metafile (Schmidt, Col. 7, line 66-Col. 8, line 1). Once identified, the helper application downloads and installs the necessary components, if any, on the client computer (Schmidt, Col. 8, lines 1-5). Thus, in Schmidt, the metafile located on the server merely provides a list of information *for use by* the helper application to identify necessary components, instead of actively testing a requesting system through a host system to verify prerequisites (Specification, page 7, line 24-page 8, line 31; FIGURE 3). Therefore, Schmidt teaches a passive metafile with information *for use by* a helper application, rather than to test a requesting system by verifying prerequisites against a runtime environment through the service host system, per Claims 1, 14, and 28. Chase fails to remedy the shortcomings of Schmidt.

Accordingly, a *prima facie* case of obviousness has not been shown. Claims 2-10 and 13 are dependent on Claim 1 and are patentable for the above-stated reasons, and as further distinguished by the limitations therein. Claims 15-23, 26, and 27 are dependent on Claim 14 and are patentable for the above-stated reasons, and as further distinguished by the limitations therein. Withdrawal of the rejection is requested.

Claims 1-10, 13-23, and 26-28 are believed to be in condition for allowance. Entry of the foregoing amendments is requested and a Notice of Allowance is earnestly solicited. Please contact the undersigned at (206) 381-3900 regarding any questions or concerns associated with the present matter.

Respectfully submitted,

Dated: January 26, 2010

By: _____
Krista A. Wittman, Esq.
Reg. No. 59594

Cascadia Intellectual Property
500 Union St, Suite 1005
Seattle, WA 98101

Telephone: (206) 381-3900
Facsimile: (206) 381-3999

Prelim Amend (RCE 2)